

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA
FIFTH DIVISION**

Hotel, Restaurant and Bar Employees Health
and Welfare Fund, Hotel, Restaurant and Bar
Employees Pension Fund,

Civil No. 04-5045 (RHK/RLE)

ORDER

Plaintiffs,

v.

Wizner Company, d/b/a Norman's Bar,

Defendant.

This Court's March 22, 2005, Order required the Defendant to submit to the Plaintiffs by April 6, 2005, those employment and payroll records necessary to permit the Plaintiffs to complete an audit disclosing the amounts, if any, of unpaid benefit contribution payments that may be owing to the Plaintiffs under the terms of the Collective Bargaining Agreement. The Court held a hearing on October 6, 2005, on Plaintiffs' Motion for an Order to Show Cause.

Based on the evidence provided at that hearing, and the other documents in this case, the Court makes the following Findings of Fact:

1. The Defendant has failed to produce the documents it was directed to produce by this Court's March 22, 2005, Order, namely those employment and payroll records necessary to permit the Plaintiffs to complete an audit disclosing the amount, if any, of unpaid benefit contribution payments that might be owing the Plaintiffs under the terms of the Collective Bargaining Agreement.

2. This is not the first time that Defendant has failed to comply with an Order of this Court; Defendant has been sued for delinquent contributions a number of times, and in fact, had to attend a hearing on June 14, 2001, to show cause why Defendant should not be found in contempt of court.

THEREFORE, IT IS ORDERED:

1. That the Defendant is commanded to appear before this Court on the 6th day of October, 2005, at 8:00 o'clock a.m., in Courtroom No. 1, in the United States Courthouse in Duluth, Minnesota, to show cause why the Defendant should not be found in contempt of court.

2. The Plaintiffs shall serve this order upon Defendant by mailing it to Defendant's last known address, via U.S. Mail, and Certified Mail, Return Receipt Requested, forthwith.

Dated: September 8, 2005

s/Richard H. Kyle

RICHARD H. Kyle

United States District Judge